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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,789	03/30/2001	Nikolas Bergerhoff	449122004000	3534

7590 12/29/2006
MORRISON & FOERSTER
2000PENNSYLVANIA AVE,NW
WASHINGTON, DC 20002-1888

EXAMINER

TSE, YOUNG TOI

ART UNIT	PAPER NUMBER
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2611

MAIL DATE	DELIVERY MODE
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12/29/2006

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/820,789	Applicant(s) BERGERHOFF, NIKOLAS	
	Examiner YOUNG T. TSE	Art Unit 2611	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

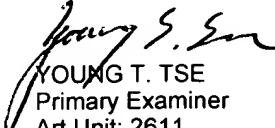
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


 YOUNG T. TSE
 Primary Examiner
 Art Unit: 2611

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant requested for reconsideration of the prior art rejection of claims 1-4, 6 and 8 rejected under 35 U.S.C. 102(b) has been fully considered by the examiner. However, the rejection remains for the following reasons: The Applicant argues in Mabuchi's Figs. 4A and 4B, the detection circuit 12 receives any signal g and demodulates it. However, the circuit is not able to distinguish reshaped signals from non-reshaped signals. Hence, there will be no difference in the output of the detection circuit for a reshaped signal or a non-reshaped signal. That is, the form of signal h in Fig. 4B will be the same either way. In the claimed invention, on the other hand, the detector 16, 40 is able to distinguish reshaped signals from non-reshaped signals (see, for example, claim 1 requiring that "the reshaping can be detected by a detector in the receiver"). The examiner respectfully disagreed. With respect to the independent claims 1 and 3, the transmitter is shown in Fig. 1 which comprises an encoder 1 including a waveform oscillator 6 for generating a waveform signal a (Fig. 2A), wherein the encoder provides an output waveform signal d (Fig. 2D) which is a reshaping signal of the waveform signal a, the reshaping or predetermined signal d is being transmitted by the transmitter to a receiver shown in Fig. 3. In Fig. 3, the receiver comprises a detection circuit 12, wherein the reshaping signal d (or f) transmitted from the transmitter can be detected by the detection circuit 12 or the detection circuit 12 supplies an output signal h when the reshaping signal is present, as recited in claims 1 and 3. Both claims 1 and 3 fail to recite the outcome of the detection circuit 12 as pointed out in the Applicant's argument. Even the claims recite the claimed subject matter as the Applicant argued, the detected signal h (Fig. 4B) is different than the reshaping signal d (Fig. 2D) or g (Fig. 4A), which is the inverse phase of Fig. 2D. Note the sensor (detector 40) shown in Fig. 3 of the present invention appears to be part of the antenna 14, but not part of the receiver 12 as discribed on page 5, lines 10-21 of the instant specification (see claim 7).